Assessment Year 1993-94

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No. 543 of 2001

The Commissioner of Income Tax,
Dehradun and another …… Appellants

Versus

Readings & Bates Exploration Co.,
As agent of Mr. R.J. Temple,
C/o Arthur Anderson & Co.,
426, World Trade Centre,
Barakhamba Lane, New Delhi …… Respondent

Mr. S.K. Posti, learned counsel for the Tax Department.
Ms. Krishi Shukla, learned counsel for the respondent.

Date: 20.07.2004

Hon'ble P.C. Verma, A.C.J.
Hon'ble P.C. Pant, J.

1. This is an appeal under section 260A of the Income Tax Act, 1961 filed by the Revenue against the judgment and order dated 20.03.2001 passed by the Income Tax Appellate Tribunal, New Delhi in I.T.A. Nos. 6436/Del/1995.

2. Mr. R.J. Temple, respondent is a non-resident foreign technician employed by a foreign company, Reading and Bates Exploration Company which, in the year under consideration, executed contracts in India. During the year under consideration, respondent was in employment of this company and thus derived income from 'salaries' from it.

3. The questions raised before us is as follows:-

QUESTIONS:

Whether on the facts and in the circumstances of the case, the ITAT was legally justified in holding that free

boarding and lodging facilities provided by the employer at the rig in high seas cannot be construed to be perquisite?

4. Heard learned counsel for the parties and perused the record.

5. As this Court has discussed in Income Tax Act Appeal No. 57 of 2002; The Commissioner of Income Tax, Dehradun & another V/s SEDCO Forex International Drilling Co. Ltd., decided on 9th October 2003, the reasoning regarding question is given in the following paragraphs:

6. The reasoning regarding aforesaid question is as under:

In this case, assessee had to work on the rig. It was hazardous, arduous and continuous. Under such circumstances free food and beverages in a necessity. It is not a luxury. It is not a perquisite. Its value cannot be added to the income of the assessee.

7. For the reasons aforesaid, we answer the above mentioned question in the affirmative i.e. in favour of the assessee and against the department.

11. Appeal disposed of accordingly. No order as to costs.

(P.C. Pant, J.) **(P.C. Verma, A.C.J.)**

H. Negi